

Update: Juvenile Traffic Benchbook

CHAPTER 9

Elements of Selected Criminal Traffic Offenses

9.10 Failing to Stop at Signal of Police Officer (“Fleeing and Eluding”)

Insert the following case summary on page 9–19 after the second paragraph in subsection “D. Issues”:

Fleeing and eluding is not a specific-intent crime; therefore, a defendant cannot raise intoxication as a defense to a charge of fleeing and eluding. *People v Abramski*, ___ Mich App ___, ___ (2003). In *Abramski*, the defendant was convicted by jury of four charges, including fleeing and eluding and operating a motor vehicle while under the influence. The defendant argued that the statutory language prohibiting the conduct of fleeing and eluding expressly requires that a driver *willfully* fail to obey a police officer’s direction. According to the defendant, the inclusion of the word “willfully” in the statutory language indicated that more than general intent was required to constitute a violation. The Court of Appeals disagreed and reasoned that “‘where the knowledge element of an offense is necessary simply to prevent innocent acts from constituting crimes,’” the “knowledge” or “willful” element of the statute is only a general intent requirement. ___ Mich App at ___, quoting *People v Karst*, 138 Mich App 413, 416 (1984).

Having concluded that the fleeing and eluding statute does not require that an individual intend that his or her conduct cause or result in a specific consequence beyond fleeing and eluding, the defendant could not raise intoxication as a defense. “[V]oluntary intoxication is not a defense to a general intent crime.” ___ Mich App at ___.